



6 April 2017

Immigration New Zealand

Carolyn Dare Wilfred – Visitor Visa

We act for Carolyn Dare Wilfred (Client Number: 26473557).

Mrs Dare Wilfred is a Canadian citizen who resided in New Zealand with her husband, Harmon Wilfred between August 2001 and September 2015. She advises us that she intends submitting an application for a visitor visa to enable her to travel to New Zealand to visit Mr Wilfred on a humanitarian basis as he is in New Zealand as a stateless person who is unable to travel. We are aware that Mrs Dare Wilfred has not seen her husband since leaving New Zealand for Canada on 5 September 2015, and that, at the ages of 65 and 68 respectively, this extended separation is taking a distressing toll on them.

Mrs Dare Wilfred is preparing her application on her own accord but has asked that we set out the details of the circumstances that require her to tick the 'yes' box under Character Details, Question regarding 'refusal of visa'. In addition, since 4 September 2015 Mrs Dare Wilfred has had a discretionary active Border Alert lodged against her name to prevent her from travelling to New Zealand from Canada as a visa-waiver visitor under s 69(2) (d) of the Immigration Act 2009.

The notation was lodged without notice to her and specifies that, if she wishes to return to New Zealand, she should make a visa application at an Immigration New Zealand office outside of New Zealand, and that her suspension should be reviewed when that occurs. Accordingly, the purpose of this letter is also to request that Immigration New Zealand remove this discretionary Border Alert and the suspension of her ability to travel to New Zealand under her Canadian visitor visa wavier.

Mrs Dare Wilfred was in New Zealand under various categories of visas including, inter alia, entrepreneur work visas from 2001 until mid-2015 having invested over \$5 million in various New Zealand businesses. As a direct consequence of her shutting and/or selling these businesses post the 2011 Christchurch earthquakes, she offered to withdraw her entrepreneur work visa application on 11 June 2014 after it became apparent that her circumstances were more suited to an application under the Investor Plus (Investor 1 Category, \$10 Million+) migrant investment category.

Mrs Dare Wilfred's Immigration Advisor, Lynn Sparks, Business Immigration NZ Limited, arranged with Immigration New Zealand for her to remain in New Zealand until 17 July 2015 so

that she could consider her options and what steps she wished to take to apply for residency under the Investor Plus (Investor 1 Category) migrant investment category.

On 9 June 2015, Mr Sparks confirmed to Immigration New Zealand that Mrs Dare Wilfred intended submitting an application under the Investor Plus (Investor 1 Category) migrant investment category. Mr Sparks' advice was accompanied by an application for a visitor visa for Mrs Dare Wilfred to remain in New Zealand while she compiled the prerequisite information for her application under the Investor Plus (Investor 1 Category) migrant investment category, and Immigration New Zealand considered that application (Application Number: 13769042).

Following an exchange of correspondence between Immigration New Zealand, Mr Sparks and the writer (who was engaged by Mrs Dare Wilfred subsequent to that application having been submitted by Mr Sparks), Immigration New Zealand declined her application for a temporary visitor visa.

Immigration New Zealand had granted her an interim visa from 17 July 2015 until such time as it had considered her application for a visitor visa and advised her of its decision. On declining her application, Immigration New Zealand informed the writer that Mrs Dare Wilfred's Investor Plus residency visa application could be considered while she was off-shore.

On 18 August 2015, Mrs Dare Wilfred submitted her application for residency under the Investor Plus (Investor 1 Category) migrant investment category (Application Number: 13996574) and applied for a special visa under s 61 Immigration Act 2009 to remain in New Zealand until such time as that application had been considered (Application Number: 13949059).

At the time she submitted these applications, Mrs Dare Wilfred advised Immigration New Zealand that should her application for a special visa be declined, she would voluntarily depart New Zealand within the 42 day statutory appeal period.

Mrs Dare Wilfred had been advised by Immigration New Zealand that no steps would be taken until her appeal period had expired and while her application for a special visa was under consideration. She relied on Immigration New Zealand's advice in remaining in New Zealand until her scheduled departure to Canada.

On 28 August 2015 her application for consideration under s 61 Immigration Act 2009 was refused, and she departed New Zealand as scheduled on 5 September 2015. Prior to her departure, she sought Ministerial intervention to remain in New Zealand pending Immigration New Zealand's consideration of her application for residency under the Investor Plus (Investor 1 category), which was subsequently declined on 14 September 2015, as the Minister was not prepared to intervene.

Mrs Dare Wilfred's application for residency under the Investor Plus (Investor 1 Category) migrant investment category was accepted for processing by Immigration New Zealand on 7 September 2015 after her departure from New Zealand. The residency application was declined by

Immigration New Zealand on 13 May 2016 on that basis that she did not provide, to the satisfaction of Immigration New Zealand, a current valuation to verify the value of her financial interests.

Mrs Dare Wilfred had, as part of her application, notified Immigration New Zealand that she was in the process of liquidating her financial interests and the costs of a current valuation would be prohibitive and unnecessary given the extent of her financial interests. She remains in the process of liquidating her financial interests and advises that she will be resubmitting her application on a cash basis rather than a valuation basis once that process is complete. She has been domiciled in Canada and Germany since her departure from New Zealand on 5 September 2015.

After Mrs Dare Wilfred's departure from New Zealand, the writer received a notice from Immigration New Zealand (Darren Calder) that Mrs Dare Wilfred's ability to participate in the Canada / New Zealand visitor visa-wavier scheme was suspended while her Investor Plus residency application was being processed. The writer strongly objected to the visa waiver suspension on Mrs Dare Wilfred's behalf and provided various grounds in support of her request for the immediate lifting of the suspension. The record of these exchanges is held by Immigration New Zealand.

When the writer inquired about Mrs Dare Wilfred's opportunity to return to New Zealand at a later date to visit her husband and further her Investor Plus application in the interim, Immigration New Zealand advised that this must be accomplished by Mrs Dare Wilfred filing a formal application for a temporary visitor visa.

On Immigration New Zealand's advice, Mrs Dare Wilfred applied for a temporary visitor visa to travel to New Zealand on 2 May 2016 (Application Number: 14685566). Her application was declined on 17 May 2017. In its written reasons for declining the application for a visitor visa, Immigration New Zealand held that, based on the information it had been provided, it was not satisfied that Mrs Dare Wilfred was a 'bona fide' applicant.

Immigration New Zealand did not specify the reasons for reaching its decision other than to identify the factors listed below, and conclude that there was 'a suggestion' that Mrs Dare Wilfred's circumstances may discourage her from returning to Canada if the opportunity of staying in New Zealand arises at the end of her stay, and that the risk of her overstaying or breaching her visa conditions were not acceptable.

- Purpose of the visit and how it corresponded to the intended stay in New Zealand.
- Partnership status and the strength of family commitments in home country and in New Zealand.
- Financial ties and commitments in home country and how they correspond to the intended stay in New Zealand.

- Previous history with Immigration New Zealand.

Mrs Dare Wilfred categorically refutes Immigration New Zealand's conclusion. She instructs that she has no intention of overstaying in New Zealand, and, in the writer's view, would have no motivation to overstay, given her stated intention of obtaining permanent residency as a Category 1 Investor in New Zealand, and the impact overstaying would have on the prospects of that application and on any further visitor visas she may apply for in order to visit her husband.

As to the factors listed above, we note:

- The purpose of Mrs Dare Wilfred's visit to New Zealand is to visit her husband who is currently domiciled in New Zealand as a stateless person. As we set out above, she has been separated from him for a period of 20 months as a consequence of Immigration New Zealand's decision to suspend her ability to participate in the visa waiver scheme.
- Mrs Dare Wilfred's husband Harmon Wilfred is a stateless person resident in New Zealand. We understand he is unable to leave New Zealand and therefore the only opportunity Mrs Dare Wilfred has to visit her husband is by obtaining a visitor visa to enter into New Zealand. She has resided in Canada for the past 20 months, and more recently has established a residence in Germany. Her children and family are located in Canada and Norway. Her primary assets are in Canada.
- Mrs Dare Wilfred has provided evidence of her ability to support herself while in New Zealand. She has limited financial ties to New Zealand at present. Her Canadian assets are controlled from Germany.
- We have set out her explanation as to her history with Immigration New Zealand above. To the extent she may have inadvertently overstayed between 24 July 2015 and 5 September 2015, it was a consequence of the advice she was given by Immigration New Zealand.

If there is anything further that we can do to assist you in considering her application, please do not hesitate to contact us.

Yours faithfully
Canterbury Legal
per:



David Ballantyne
Solicitor
Email: david@canterburylegal.co.nz